

AGENDA ITEM NO. VIII-A  
COMMISSION MEETING 4-3-13

April 3, 2013

FROM: MIKE SANCHEZ, Planning Manager,  
Development Services Division

THROUGH: WILL TACKETT, Supervising Planner,  
Development Services Division

BY: ISRAEL TREJO, Planner  
Development Services Division

APPROVED BY

DEPARTMENT DIRECTOR

M. Scott

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT APPLICATION NO. C-12-225 AND RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-12-225; PROPERTY LOCATED NEAR THE SOUTHWEST CORNER OF NORTH PEACH AND EAST OLIVE AVENUES

## RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

1. APPROVE the finding of a Categorical Exemption Class 1 and Class 3 for Environmental Assessment No. C-12-225 issued March 22, 2013.
2. APPROVE Conditional Use Permit Application No. C-12-225 a request to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a 12,480 square foot Dollar General variety store, subject to the following conditions:
  - a. Development shall comply with the conditions of approval for the project dated April 3, 2013.

## EXECUTIVE SUMMARY

Steve Rawlings, on behalf of Dollar General variety store, has filed Conditional Use Permit Application No. C-12-225 requesting authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold. The application is proposed to be utilized within a 12,480 square foot Dollar General variety store which was previously approved under Site Plan Application No. S-12-053. The project site is located near the southwest corner of North Peach and East Olive Avenues. The site is zoned C-6/cz (*Heavy Commercial District/conditions of zoning*). The subject application is being reviewed by the Planning Commission pursuant to a condition of zoning placed on the property by the City Council on October 31, 1989. Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-12-225, subject to the conditions of approval noted above.

## PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-12-225 is a request for authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits, for consumption off the premises where sold, within a 12,480 square foot Dollar General variety store
APPLICANT	Dollar General variety store

LOCATION	5166 East Olive Avenue; Located near the southwest corner of East Olive Avenue and North Peach Avenue (APN: 456-270-29) <b>(Council District 4, Councilmember Caprioglio)</b>
SITE SIZE	Approximately 6.61 acres (Parcel Map No. 2012-04 has been submitted to subdivide the subject property. The subject business is located on a proposed 1.25 acre parcel)
LAND USE	Existing – Vacant land (Dollar General variety store is currently under construction)
ZONING	C-6/cz ( <i>Heavy Commercial District/conditions of zoning</i> )
PLAN DESIGNATION AND CONSISTENCY	The request to allow for the sale of beer, wine and distilled spirits for consumption off the premises where sold is consistent with both the existing C-6/cz zone district and the Community Commercial planned land use designation of the 2025 General Plan and the Roosevelt Community Plan
ENVIRONMENTAL FINDING	Categorical Exemption, Class 1 and Class 3, dated March 22, 2013
PLAN COMMITTEE RECOMMENDATION	The District 4 Plan Implementation Committee recommended approval of the subject application at their meeting on January 28, 2013
STAFF RECOMMENDATION	Recommend that the Planning Commission Approve Conditional Use Permit Application No. C-12-225

## BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Medium-High Density Residential	<b>R-P</b> ( <i>Residential and Professional District</i> ) <b>R-3</b> ( <i>Medium Density Multiple Family Residential District</i> )	Multiple Family Residential & Office
South	Medium-High Density Residential	<b>R-2</b> ( <i>Low Density Multiple Family Residential District</i> )	Multiple Family Residential
East	Neighborhood Commercial & Medium-High Density Residential	<b>C-1</b> ( <i>Neighborhood Shopping Center District</i> ) <b>R-3</b> ( <i>Medium Density Multiple Family Residential District</i> )	Multiple Family Residential & Convenience Store
West	Community Commercial	<b>C-6</b> ( <i>Heavy Commercial District</i> )	Office

## ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from the California Environmental Quality Act (CEQA) on March 22, 2013, under a Class 1 and Class 3 Categorical Exemption. Section

15301/Class1 of CEQA consists of, in part, the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 15303/Class 3 of CEQA consists of the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The project consists of a request for authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits, for consumption off the premises where sold, within a 12,480 square foot Dollar General variety store. The development of the Dollar General Store has been previously approved under Site Plan No. S-12-053. The retail sale of beer, wine and distilled spirits is allowed within the designated zone district and Community Commercial general plan designation. In addition to obtaining a conditional use permit, the applicant will also be required to obtain appropriate licensing from the State Department of Alcoholic Beverage Control.

## **BACKGROUND / ANALYSIS**

Steve Rawlings, on behalf of Dollar General variety store, has filed Conditional Use Permit Application No. C-12-225 requesting authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold. The application is proposed to be utilized within a 12,480 square foot Dollar General variety store which was previously approved under Site Plan Application No. S-12-053. The project site is located near the southwest corner of North Peach and East Olive Avenues. The site is zoned C-6/cz (*Heavy Commercial District/conditions of zoning*). The subject application is being reviewed by the Planning Commission pursuant to a condition of zoning placed on the property by the City Council on October 31, 1989. Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-12-225, subject to the conditions of approval noted previously.

### **Planning Commission Review**

Conditional Use Permit Application No. C-12-225 is subject to review by the Planning Commission pursuant to a condition of zoning attached to the subject property (see below). Rezone Application No. R-89-62, approved on October 31, 1989, rezoned the property (at that time an 8.08 acre parcel) from the R-3 (*Medium Density Multiple Family Residential District*) zone district to the C-6/cz (*Heavy Commercial District/conditions of zoning*) zone district. The conditions of zoning were placed on the property (at that time an 8.08 acre parcel) to soften the impact of a commercial development where the subject site is located. The conditions of zoning are as follows:

1. All uses permitted in the C-1 district either by right or by conditional use permit, except for a car wash facility, shall be permitted.
2. Only the following C-6 district uses shall be permitted:
  - a. Automobile Parts Sales (New)
  - b. Drive-In Restaurant
  - c. Gymnasiums
  - d. Meeting Halls
  - e. Print Shop, Lithographing, Publishing, Blueprinting
  - f. Super Drugstore
  - g. Reducing Salons



h. Motion Picture Theaters (Subject to CUP)

3. Any application for site plan review or conditional use permit shall be referred to the Planning Commission for review and approval.
4. The following property development standards shall apply:
  - a. No outdoor advertising structures shall be permitted.
  - b. Minimum landscaped setbacks shall be 20 feet on East Olive Avenue and 10 feet on North Peach Avenue.
  - c. Minimum rear and side yard setbacks shall be 10 feet.
  - d. Lot coverage shall not exceed 33 percent.
  - e. Building height shall be limited to single story.

**Site Plan No. S-12-053**

Site Plan No. S-12-053 was approved by the Development and Resource Management on December 18, 2012, and authorized the development of a 12,480 square-foot commercial building for a proposed Dollar General variety store. The Dollar General is currently under construction.

**Proposed Use Allowed Pursuant to a Conditional Use Permit**

The Fresno Municipal Code allows the retail sale of alcohol for off-site consumption in the C-1 (*Neighborhood Shopping Center District*) through C-6 (*Heavy Commercial District*) zone districts subject to a conditional use permit. In addition to having beer, wine and distilled spirits, the Dollar General will also retail bread, milk, eggs, cereal, laundry detergent, socks, underwear, etc.

**Parcel Map No. 2012-04**

The subject site is currently in the process of being subdivided. Parcel Map No. 2012-04 proposes to subdivide the site from one 6.61 acre parcel to four parcels. The subject business is located on a proposed 1.25 acre parcel.

**Fresno Police Department**

The Fresno Police Department has conditioned the proposed project subject to their letter dated January 10, 2013. These conditions address a myriad of issues related to the operation of alcohol-related uses, including employee education, security, video surveillance, and enforcement procedures.

**Fresno Unified School District**

The subject application was routed to the Fresno Unified School District (FUSD) for comment. The subject business is located approximately 586 feet from Turner Elementary School. Six hundred feet is the distance the Alcoholic Beverage Control (ABC) uses in which a license can be refused if a project is located within said distance from a school.

The comment received from FUSD was that "the District does not support this project and continues to have concerns regarding potentially dangerous interaction between our students and the proposed operation". The FUSD comments go on to further explain that FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites. It is noted that the Fresno Police Department has provided conditions of approval for the subject application.



Alcoholic Beverage Control Regulations

In addition to obtaining a conditional use permit from the City of Fresno, the applicant is required to obtain a license from the ABC in order to sell beer, wine and distilled spirits. The ABC is currently reviewing the applicant's request to obtain a Type 21, State of California, ABC license.

California Business and Professions Code 23789

California Business and Professions Code 23789(b) states: the department (ABC) is specifically authorized to refuse the issuance, other than renewal or ownership transfer, of any retail license for premises located within at least 600 feet of schools. The subject business is located approximately 586 feet from Turner Elementary School. It should be emphasized that Section 23789(b) of California Business and Professions Code *authorizes* ABC to refuse the issuance of a retail license, however, it does not *mandate* ABC to refuse the issuance of a retail license.

The Fresno Police Department has provided conditions of approval for the subject application. The Police Department has required certain requirements that must be met by the applicant which are intended to help protect the public health, safety and welfare of patrons, neighbors and the public. The subject Dollar General building was approved at 12,480 square feet and will also retail bread, milk, eggs, cereal, laundry detergent, socks, underwear, etc.

**Council District Plan Implementation Committee**

The District 4 Plan Implementation Committee recommended approval of the subject application at their meeting on January 28, 2013.

**Public Notice**

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners within 350 feet of the subject property (see attached Noticing Map).

**FINDINGS**

The appropriateness of the proposed project has been examined with respect to its consistency with the goals and policies of the 2025 Fresno General Plan and the Roosevelt Community Plan; its compatibility with surrounding existing or proposed uses; and, its avoidance or mitigation of potentially significant adverse environmental impacts.

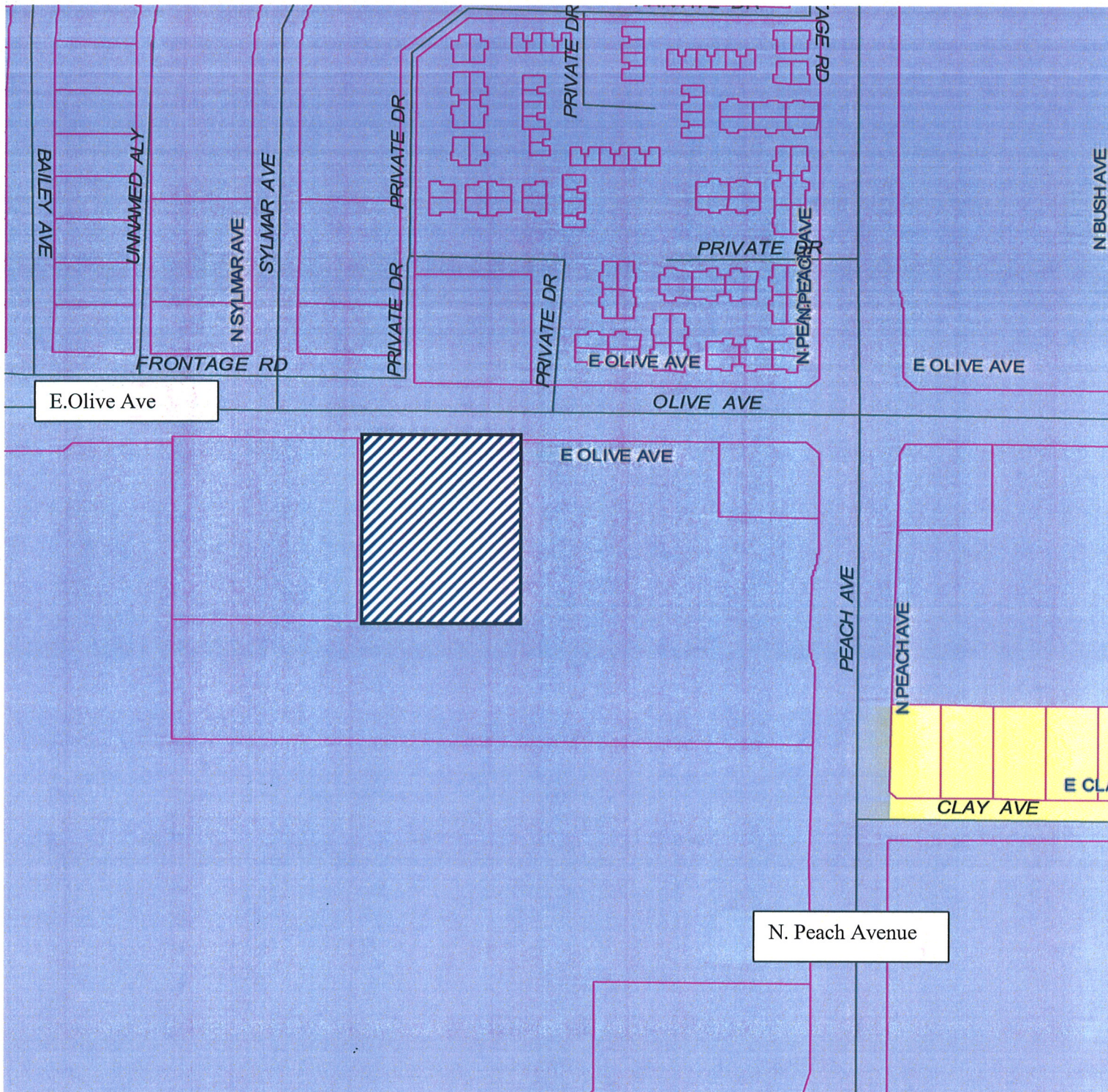
No special permit may be issued unless it is found that the privilege exercised under the permit, conforms to the findings of 12-405-A-2 of the Fresno Municipal Code. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for Conditional Use Permit Application No. C-12-225.

Findings per Fresno Municipal Code Section 12-405-A-2
a. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,

Finding a:	Conditional Use Permit Application No. C-12-225 will comply with all applicable codes, including parking, landscaping, walls, etc.
<i>b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	The subject property is accessed from a collector street (East Olive Avenue); the adjacent street was assessed during the initial approval for development of the subject site to ensure that the development would have less than significant impacts on traffic and the surrounding neighborhood.
<i>c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	
Finding c:	The subject site is intended to function with commercial uses. In addition, the applicant will be required to comply with the conditions of approval as required by the Police Department that will stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbors, alike.

Attachments: Vicinity Map  
 2012 Aerial Photograph of site  
 Noticing Map (350 foot radius)  
 Conditions of Approval for the project dated April 3, 2013  
 Exhibit A, Site Plan, dated November 28, 2012  
 Exhibit O, Operational Statement dated March 21, 2013  
 Fresno Unified School District letter dated December 13, 2013  
 Environmental Assessment No. C-12-225 dated March 22, 2013





# **LEGEND**



Subject Property

## **VICINITY MAP**

## **DEVELOPMENT & RESOURCE MGMT DEPARTMENT**

CONDITIONAL USE PERMIT NO. C-12-225

A.P.N.: 456-270-29

ZONE DIST.: C-6/cz

BY/DATE:



Not To Scale





2012 Aerial

Subject Property

East Olive Ave.

North Peach Ave.

Eye alt 628 m

98 m

Imagery Date: 8/26/2012 N Bailey Ave 36° 45' 24.71" N 119° 43' 11.92" W elev

© 2013 Google

Google earth



request ID: 4512401-12-225 350

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**CITY OF FRESNO  
DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT**

**CONDITIONS OF APPROVAL**

APRIL 3, 2013

**CONDITIONAL USE PERMIT  
APPLICATION No. C-12-225  
5166 EAST OLIVE AVENUE**

**Conditional Use Permit Application No. C-12-225 is subject to the following conditions of approval:**

**PART A - PROJECT INFORMATION**

1. Assessor's Parcel No: 456-270-29
2. Job Address: 5166 East Olive Avenue
3. Street Location: Located near the southwest corner of North Peach and East Olive Avenues
4. Existing Zoning: C-6/cz (Heavy Commercial District/conditions of zoning)
5. Planned Land Use: Community Commercial
6. Plan Areas: The 2025 Fresno General Plan and the Roosevelt Community Plan
7. Project Description: Conditional Use Permit Application No. C-12-225 is a request to authorize a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a 12,480 square foot Dollar General store (the Dollar General Store was previously approved under Site Plan No. S-12-053)

**A. General Conditions**

1. Exercise of the special permit shall comply with Exhibit A (site plan) dated November 28, 2012, and Exhibit O (operational statement), dated March 21, 2013.
2. Comply with the letter from the Fresno Police Department dated January 10, 2013.
3. Comply with the letter from the County of Fresno, Department of Public Health, dated December 11, 2012.



Conditions of Approval

Conditional Use Permit Amendment Application No. C-12-225

April 3, 2013

Page 2

4. Obtain appropriate licensing from the State Department of Alcoholic Beverage Control.
5. Development shall take place in accordance with the C-6/cz (*Heavy Commercial District/conditions of zoning*) zone district as defined in Section 12-222 of the Fresno Municipal Code (FMC).
6. Advertising signs are not approved for installation as part of this special permit. Proposed signs must be approved with the benefit of a sign permit and comply with the requirements of the Fresno Municipal Code.

Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. This special permit is granted, and the conditions imposed, based upon the Operation Statement provided by the applicant. The Operation Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operation Statement. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under the law.

To complete the back-check process for relative to planning and zoning issues, submit two copies of the corrected, final site plan, and any required covenants and/or studies or analyses to the Development Services Division, Current Planning Section, for final review.

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

All code requirements, are mandatory and may only be modified by variance, provided the findings pursuant to Fresno Municipal Code (FMC) Section 12-405.A can be made.

No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted.

Transfer all red line notes, etc., shown on all original site plan exhibits to the final site plan. CORRECTIONS SHALL INCLUDE ALL THOSE LISTED IN THIS DOCUMENT AND THOSE LISTED IN THE CORRECTION LIST PROVIDED BY THE PLAN CHECK PROCESS.

The exercise of rights granted by this special permit must be commenced by April 3, 2017 (four years from the date of approval). There is no exception.



January 10, 2013

City of Fresno, Development Department  
Director of Planning & Development.  
Special Permit, Conditional Use Permit  
2600 Fresno Street  
Fresno, California, 93721-3604

**Attn. Israel Trejo**

**Re: SPECIAL PERMIT NO. C-12-225**  
**Dollar General Store #14297**  
**5166 E. Olive Avenue**  
**Fresno, Ca 93727**  
**A.P.N. 456-270-29**

Dear, Mr. Trejo,

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at **5166 E. Olive Ave.** The property has been zoned C-6 for heavy commercial development. The Fresno Police Department's primary concern with the application is the propensity of the operations on the premises to generate calls for police service, and therefore, be detrimental to the public welfare.

As you know, to approve any Conditional Use Permit, the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, and all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,
3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

Revised March 17, 2009



The conditions are established to ensure public safety, and to minimize any impact to the surrounding area. If approved, this Conditional Use Permit would allow for an **off-sale Type 21 ABC license**. We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-12-225. These conditions will help to insure maintain an environment that is least likely to generate criminal activity, public complaints and police calls for service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, providing the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of CUP No. C-12-225 the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Santellano with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, if the Director approves the Conditional Use Permit.

**Requested Conditions of Approval:**

**1. Fresno Municipal Codes**

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

- FMC 9-502 (Amusement Devices - Permit Required)
- FMC 9-1803 (Hours of Operation of Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 9-1905 (Public Dancing - Permit Required)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)
- FMC 12-224 (C-M Zone, Adult Theater activities not permitted, see 12-105-T-1.1 for definition of Adult Theater, and 12-306-N-30 for additional limitations on Adult Business activities.)

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: [www.Fresno.gov](http://www.Fresno.gov). The link to the FMC is located on the Home Page of that website.

**2. State and Federal Law**

The applicant shall comply with all applicable state and federal law, rules and regulations, including but not limited to the following California Business and Professions Code sections and ABC rules:

- BP 24046 (Required to Post ABC License on Premises)
- BP 25612.5 (Loitering, Open Alcoholic Beverage Containers, Consuming Alcoholic Beverages on Premises, Exterior Lighting, Litter



Removal, Graffiti Removal, Signs and Barriers in Windows and Doors, Public Phones Blocked From Incoming Calls, Areas to Display Harmful Matter, Required Copies of Operating Standards Available for Public Viewing)

BP 25631 (No sale of alcoholic beverages between 2:00 a.m. and 6:00 a.m.)

BP 25665 (Minors Remaining in Public Premises)

ABC Act Rule 106 (No Buy One Get One Free Drinks)

ABC Act Rule 107 (No One Under 21 Allowed Signs Posted)

ABC Act Rule 139 (Interior Lighting Required for Identification of Patrons)

### 3. Video Camera

Prior to exercising any privileges granted by CUP No. C-12-225 the applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

3.1 The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.

3.2 The System shall have the correct date and time stamped onto the image at all times.

3.3 The camera storage capacity should be for at least one week (seven calendar days). Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.

3.4 Digital video recorder must be capable of storing at least seven days of real-time activities.

3.5 The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a **criminal investigation only**.

3.6 The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.

3.7 There shall be four (4) exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.

3.8 All interior cameras shall record in color.

3.9 All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.

It is recommended, but not required, that the owner/operator provide the IP address(s) to the Fresno Police Department Communications Center for any system that is browser-based or viewable from a remote site. The Fresno Police Department may perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of this Conditional Use Permit.

#### **4. ABC Education**

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:

- 4.1 Completed training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or,
- 4.2 Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:

- 4.3 The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP or within 15 days of the opening to the public of a new store, whichever is later, that a date certain has been scheduled with the local ABC Office for said prospective employees to take the LEAD Program course; and
- 4.4 Within 30 days of taking said course the employee(s) or responsible employer shall deliver to the Planning Department each required LEAD Program Certificate evidencing completion of said course.

#### **5. Sale of Malt and Wine-Cooler Alcoholic Beverages**

5.1 Malt liquor or malt beverage products shall not be sold in less than six (6) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities. This will include all sizes of containers.

5.2 All wine cooler products shall not be sold in less than four (4) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities.

5.3 Single Sales of any other beer product, of any size, is permitted.

**6. Wine Alcohol Per Volume**

No wine shall be sold with an alcoholic content greater than 24% volume, except premium dessert wines priced at \$10.00 or more.

**7. Non-refrigerated Alcoholic Beverages**

Non-refrigerated "hard" liquor or "distilled spirits," shall be placed within the cashier's area or, shall be located either in a locked cabinet, or other locked shelving system, with access controlled with either manual, remote control locking devices or other appropriate and acceptable locking systems approved in writing by the Fresno Police Department. During the hours of midnight and 2:00 a.m. the cabinet or shelving system shall be locked and opened only after an authorized employee has verified that the customer seeking to purchase items within the cabinet or shelving system is of "legal age."

**8. Posting Property**

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

**9. Consumption of Alcoholic Beverages and Loitering.**

9.1 The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on the exterior portion of adjacent property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

9.2 The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

9.3 The establishment shall not allow any gambling on building premises or any adjacent property under its control.



**10. Property Responsibility**

“Frequent” responses by the Fresno Police Department arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result in an FPD recommendation to the Director of Planning and Development to commence proceedings to revoke the Conditional Use Permit for violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

“Frequent” means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.

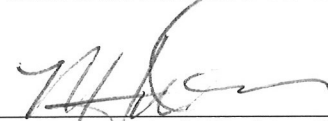
- 11. The establishment shall ensure that all employees involved, either directly or indirectly, in the sale of alcoholic beverages are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment that he/she has reviewed and understood each of these conditions. The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.**

**FRESNO POLICE DEPARTMENT**



Date: 1/10/13

Officer Michelle Santellano #902  
Southeast District POP Team



Date: 1/10/13

Sergeant Mark Hudson #S82  
Southeast District Det/POP



Date: 1-10-13

Lieutenant Herman Silva  
Southeast District Commander



## County of Fresno

Department of Public Health

Edward L. Moreno, M.D., M.P.H., Director-Health Officer

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December 11, 2012

999999999

LU0016609

PE 2602

Israel Trejo  
City of Fresno  
Development Department  
2600 Fresno Street  
Fresno, CA 93721

Dear Mr. Trejo:

**PROJECT NUMBER: C-12-225-ABCUP**

**Conditional Use Permit Application No. C-12-225-ABCUP** was filed by Steve Rawlings, on behalf of Dolgen California LLC, and pertains to 1.22 acres of property located on the southwest corner of East Olive and North Peach Avenues. The applicant proposes the construction of a 12,406 square-foot Dollar-General retail store and requests authorization to establish a State of California Alcoholic Beverage Control Type 21 liquor license (sale of beer and wine for consumption off the premises where sold) in order to sell alcoholic beverages at the store for offsite consumption. The property is zoned C-6 (*Heavy Commercial*).

**APN: 456-270-29**

**ZONING: C-6**

**ADDRESS: 5166 East Olive Avenue**

Recommended Conditions of Approval:

- Prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 600-4058 for more information.
- Prior to operation, the applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-4058 for more information.
- Prior to operation, the applicant shall obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.
- Prior to occupancy, the applicant shall complete and submit a Hazardous Materials Business Plan or an exemption form to the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.



Israel Trejo  
C-12-225  
December 11, 2012  
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- All hazardous waste shall be handled in accordance with requirements set forth in the California Health and Safety Code, Chapter 6.5. This chapter discusses proper labeling, storage and handling of hazardous wastes.
- Any construction materials deemed hazardous must be characterized and disposed of in accordance with current federal, state, and local requirements.

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REVIEWED BY:

**Kevin Tsuda**

Digitally signed by Kevin Tsuda  
DN: cn=Kevin Tsuda, o, ou=Fresno  
County EH,  
email=kttsuda@co.fresno.ca.us, c=US  
Date: 2012.12.11 14:36:27 -0800

R.E.H.S.

Environmental Health Specialist II

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(559) 600-3271

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kt

cc: Vince Mendes, Supervising Environmental Health Specialist (CT 29.01)  
Baruti/Casagrande/Tolzmann/Oung, Environmental Health Division  
Steve Rawlings, Applicant ([SE.Rawlings@verizon.net](mailto:SE.Rawlings@verizon.net))  
Richard Bakman, Owner ([tim@bakmanwater.com](mailto:tim@bakmanwater.com))  
Dolgen California, LLC #14297 ([tax-beerandwinelicense@dollargeneral.com](mailto:tax-beerandwinelicense@dollargeneral.com))

C-12-225 Dollar General.docx





**Statement of Operations for  
Dollar General Store #14297  
3/21/13**

**Site Address:** 5166 East Olive Avenue, Fresno, CA **APN:** 456-270-29

**General Plan Designation:** Commercial **Existing Zone:** C-N **Community Plan:** Roosevelt

Dollar General Corporation is the nation's largest small-box discount retailer with nearly 10,000 locations in 35 states. Dollar General is publicly traded on the NYSE under the ticker symbol: DG. Dollar General makes shopping for everyday needs simpler and hassle-free by offering a carefully edited assortment of the most popular brands at low everyday prices in small, convenient locations. Dollar General ranks among the largest retailers of top-quality brands made by America's most-trusted manufacturers, such as Procter & Gamble, Kimberly Clark, Unilever, Kellogg's, General Mills and Nabisco. Dollar General delivers a smarter, easier shopping solution accessible to more consumers. Dollar General's goal is to provide customers a better life and employee's opportunity and a great working environment.

Shopping at Dollar General saves consumers time by staying focused on life's simple necessities: bread, milk, eggs, soup, cereal, coffee, sodas, laundry detergent, paper towels, soap, shampoo, socks and underwear as well as alcohol. The average Dollar General customer completes their shopping trip in less than 10 minutes.

**Describe efforts that have been made to discuss the proposal with neighbors:** Dollar General has a 50+ year tradition of being a great neighbor and will promptly and professionally respond to any inquiries of the neighbors when notices of hearing are mailed.

**Describe how the proposal is complementary to the surrounding neighborhood:** Project will offer complete line of day to day products making shopping much more convenient and provide the community with a quality alternative.

**Describe how the proposal helps implement the 2025 Fresno General Plan:**

Beer, wine and distilled spirits (Type 21 ABC License) sales for off-site consumption within a national discount retail store is consistent with the City's General Plan by providing a product that serves to provide the full spectrum of commercial needs for a community or neighborhood commercial retail center.

**Describe, in detail, the proposed use:**

Permit the sale of beer and wine at a neighbor discount grocery store that offers a wide variety of day to day products from groceries to health and beauty products to household goods and clothing.

**Detail the hours of operation and the number of employees:**

Monday – Sunday: 6am to 11pm

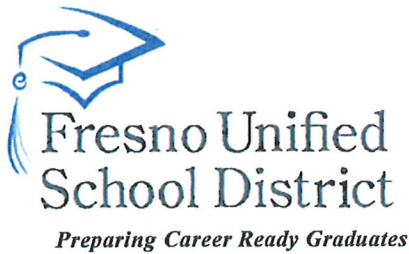
Number of employees per shift: 5 - 10

**Detail the expected daily visitors/users/guests:** 500

**Describe any reasonably foreseeable effects from construction and/or operation of the site that may impact the neighbors:** The construction of the building will comply with all City rules and regulations for noise, dust and other potential nuisances. There are no foreseeable long term effects from this proposed use.

**Detail all security measures:**

Spirits are displayed in locked, glass display case as shown on the attached photo. Surveillance cameras are located throughout the sales area as well as storage area. Employees go through corporate training for alcohol sales and must input date of birth into cash register to complete any alcohol transaction.



## Facilities Management & Planning

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## SUPERINTENDENT

Michael E. Hanson

December 13, 2012

Israel Trejo  
Development and Resource Management  
City of Fresno  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

SUBJECT: **CONDITIONAL USE PERMIT NO. C-12-225-ABCUP  
5166 E. OLIVE AVE.**

Dear Mr. Trejo,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns.

The proposed 'Dollar General' retail store to be located at 5166 East Olive Avenue is requesting authorization to establish a State of California Alcoholic Beverage Control Type 21 (*sale of beer and wine for consumption off the premises where sold*) ABC liquor license. It is located within approximately 586 feet from Turner Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." The District **does not support** this project and continues to have concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

Any new commercial/industrial development which occurs, may ultimately affect the District by generating employees. The children of those employees living in the District will need to be housed in District schools.

The Fresno Unified School District levies a commercial/industrial development fee of \$0.51 per square foot. Any new development on the property will be subject to the development fee prior to issuance of a building permit.

If you have any questions or require additional information regarding our comments and concerns, please contact Deana Clayton, Project Manager, at (559) 457-3066.

Sincerely,

Lisa LeBlanc, Executive Officer  
Facilities Management and Planning

LL:hh

c: Steve Gettman, Principal, Turner Elementary School



**CITY OF FRESNO  
CATEGORICAL EXEMPTION  
ENVIRONMENTAL ASSESSMENT NO. C-12-225**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY  
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS  
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

**APPLICANT:** Dollar General  
5166 East Olive Avenue  
Fresno, CA 93727

**PROJECT LOCATION:** 5166 East Olive Avenue, near the southwest corner of  
East Olive Avenue and North Peach Avenue  
(APN: 456-270-29)

**PROJECT DESCRIPTION:** Conditional Use Permit Application No. C-12-225 is a request for authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits, for consumption off the premises where sold, within a 12,480 square foot Dollar General variety store

**This project is exempt under Sections 15301/ Class 1 and 15303/Class 3 of the State of California CEQA Guidelines. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines Section 15300.2 apply to this project.**

**EXPLANATION:** Section 15301/Class1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

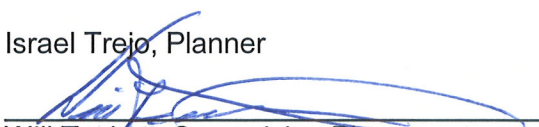
Section 15303/Class 3 consists of the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The project consists of a request for authorization to allow a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits, for consumption off the premises where sold, within a 12,480 square foot Dollar General variety store. The development of the Dollar General Store has been previously approved under Site Plan No. S-12-053. The retail sale of beer, wine and distilled spirits is allowed within the designated zone district and Community Commercial general plan designation. In addition to obtaining a conditional use permit, the applicant will also be required to obtain appropriate licensing from the State Department of Alcoholic Beverage Control.

Date: March 22, 2013

Prepared By: Israel Trejo, Planner

Submitted By:

  
Will Tackett, Supervising Planner  
City of Fresno  
Development & Resource Mgmt. Department  
(559) 621-8277